



Cincinnati Police Department STAFF NOTES

April 18, 2006

Colonel Thomas H. Streicher, Jr., Police Chief



Public Information Office

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Planning Section

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1. POLICE MEMORIAL WEEK OPEN HOUSE SCHEDULE

Police Memorial Week is May 14 - 20, 2006. The schedule for each district's open house is as follows:

District 1	Wednesday May 17 th	9:00 a.m. to 1:00 p.m.
District 2	Friday May 19 th	9:00 a.m. to 1:00 p.m.
District 3	Thursday May 11 th	9:00 a.m. to 1:00 p.m.
District 4	Thursday May 18 th	9:00 a.m. to 1:00 p.m.
District 5	Monday May 15 th	9:00 a.m. to 1:00 p.m.

2. 39TH ANNUAL POLICE AWARDS

The 39th Annual Police Awards will be held on May 18, 2006, at the Sharonville Convention Center, 11355 Chester Road, Sharonville, Ohio. The evening social will begin at 1800 hours, followed by dinner at 1915 hours. The awards program will start at 2000 hours and will last approximately one hour. Several sworn members of the Cincinnati Police Department will be recognized for their excellence in the following categories:

Act of Bravery

- Officers Jeremy Howard, Colleen Deegan, and Jason Hubbard, Central Vice Control Section
- Detectives Brian Trotta and Jennifer Luke, Homicide Unit

Police Work with Children

- Police Officer James Robb, School Resource Officer Squad

Outstanding Job of Traffic Enforcement/Education

- Police Specialist Michael A. Flamm, Traffic Unit

Best Overall Investigative Job Leading to Solution of Crime

- Police Officers Jeffrey Schare and Kurt Ballman, Homicide Unit

Most Constructive Plans or Ideas for Improvement of Police Operations

- Lieutenant Lee Carmichael and Senior Computer Programmer Analyst James Olthaus, Information Technology Management Section

Superior Achievement in Professionalism

- Lieutenant Joseph W. Hall, Intelligence Unit, and Lieutenant Douglas Ventre, Tactical Planning

The aforementioned personnel are to be congratulated for their excellence and dedication to duty.

3. REMINDER: [PROCEDURE 12.115](#), HANDLING WILD/EXOTIC ANIMALS, PIT BULL TERRIERS, VICIOUS DOGS AND ANIMAL REPORTS

Supervisors are reminded to review Procedure 12.115, Handling Wild/Exotic Animals, Pit Bull Terriers, Vicious Dogs and Animal Reports, with all officers.

There has been some confusion regarding the laws against Pit Bull and Staffordshire Terriers within the City limits.

Persons calling with questions regarding the possession or harboring of Pit Bull or Staffordshire Terriers should be advised that unless the dog was registered prior to November 1, 2003, it is now illegal to possess or harbor these dogs within the City limits, regardless of the possession of insurance, microchip implants, or restraints. Pit Bull or Staffordshire Terriers can no longer be registered. Officers and citizens should refer to §701-6 Cincinnati Municipal Code for further information.

Personnel should review the procedure in its entirety. The procedure is available on the Intranet and on the Department web page. The list of registered dogs is on the Department web page.

4. REVISION TO [PROCEDURE 12.270](#), IMPOUNDING, MOVING AND RELEASE OF VEHICLES

Procedure 12.270, Impounding, Moving and Release of Vehicles, has been revised. A recent change by the Law Department to the Cincinnati Municipal Code (CMC) Chapter 759 has resulted in an addition to the "Information" section explaining conditions under which vehicles can be towed.

A vehicle can be towed only if the person charged with CMC Chapter 759 is the owner or joint owner of the vehicle. An offender who is not the registered owner can still be cited under CMC Chapter 759 and subject to the civil penalty, but the car cannot be held in lieu of payment.

If an officer can prove the owner of the vehicle was aware it was to be used in violation of a drug or prostitution offense, they are no longer an "innocent owner"; they can be cited with CMC 759, and the vehicle can be seized.

This revision is effective immediately. Personnel should review the procedure in its entirety. The revised procedure is available on the Intranet and on the Department web page.

5. LETTER FROM HAMILTON COUNTY PROSECUTOR JOSEPH DETERS

[Attached](#) to these Staff Notes is a letter from Joseph Deters, Hamilton County Prosecuting Attorney, detailing the outcome of trafficking/possession cases brought before the Grand Jury in January, 2006.

12.270 IMPOUNDING, MOVING, AND RELEASE OF VEHICLES

References:

Procedure 12.205 - Traffic Enforcement
 Procedure 12.215 - Cincinnati Parking Infraction (CPI)
 Procedure 12.255 - Delinquent Vehicles: Impounding/Processing Delinquent Tags
 Procedure 12.265 - Wrecker and Towing
 Procedure 12.275 - Removal of Abandoned Junk Motor Vehicles (Public or Private Property) and Overtime Parked Vehicles
 Procedure 12.420 - Reporting Vehicle Thefts and Related Offenses
 Cincinnati Municipal Code (CMC) Chapter 513 - Impoundment of Motor Vehicles
 CMC Section 503 - Vehicular Construction and Equipment
 CMC Section 759 - Use of a Motor Vehicle to Facilitate a Prostitution or Drug Related Crime
 Ohio Revised Code (ORC) - 4511.681- Parking prohibitions on private property
 ORC 4513.60 - Abandoned Vehicles

Purpose:

Determine when vehicles may or may not be impounded and/or released.

Establish accountability for safeguarding property contained in impounded vehicles.

Information:

Officers are authorized to tow a vehicle used in a drug or prostitution offense under Cincinnati Municipal Code Chapter 759. The vehicle will be held in lieu of payment of a civil fine authorized under this ordinance. The offender must be the registered owner or joint owner of the vehicle. The exception to this would be when an officer can prove the owner knew the vehicle was being used for a drug or prostitution offense. The vehicle could then be towed, as the owner no longer qualifies as an "innocent owner".

The civil penalty may still be issued to offenders who are not the registered owner, but the vehicle cannot be held in lieu of payment. If the vehicle is owned by an innocent party, the vehicle will be treated as any other "driver arrested" situation (e.g. park the car, turn keys over to responsible party, etc.).

The Impound Unit, located at 3425 Spring Grove Avenue, is open 0630 to 2130 hours seven days a week.

Procedure:

- A. Impoundment of Vehicles Outside Impound Unit Business Hours
 - 1. Using a supervisor approved move-only, tag and move to a non-hazardous location, any vehicle parked in violation and creating a hazard.

2. Do not tow delinquent vehicles when the Impound Unit is closed.
 - a. If the vehicle is occupied, drive it to the district and hold it while the owner pays the citation(s) or posts the required bond for the delinquent tags.
 - b. If parked, cite the vehicle for any current violation. Make a blotter entry noting the location of the vehicle for follow up.
3. Do not tow vehicles bearing tags expired more than 30 days when the Impound Unit is closed.
4. Tow vehicle recoveries to a designated private storage facility, initiating a Signal 38, if it is not possible to release the vehicle to the owner at the scene.
5. Provide the district desk person with a completed Form 369, Towing Report, whenever a vehicle is held at a district. Make a blotter entry for first shift to have the vehicle towed.

B. Impoundment Guidelines

1. A police officer may impound any motor vehicle which is:
 - a. Stolen.
 - b. Parked in violation of the law.
 - c. Involved in a motor vehicle crash.
 - d. Declared delinquent because of two or more parking infractions in which judgments or default judgments have been filed with the Clerk of the Hamilton County Municipal Court pursuant to Cincinnati Municipal Code (CMC) Section 515-7.
 - e. Not displaying license plates.
 - f. Blocking ingress or egress to a street, alley, roadway, driveway, parking facility, or loading facility.
 - g. In the possession of a physically arrested person.
 - h. Driven by a person under the influence of alcohol, drugs, or a combination thereof.
 - i. Under the control of a person who requests impoundment for safekeeping.
 - j. Held for evidence or investigation with the approval of a supervisor.
 - k. Driven by an owner who is under suspension.

2. Officers will tow the vehicle when probable cause exists to make a physical arrest only if the person charged with CMC Chapter 759 is the owner or joint owner of the vehicle used to facilitate a prostitution or drug related crime.
3. With the exception of vehicles towed pursuant to CMC Chapter 759, do not impound the motor vehicle of a physically arrested person or a first offender OVI arrest if:
 - a. The owner/driver allows the officer to safely and legally park the vehicle.
 - b. The vehicle is not needed for evidence.
 - c. The driver arranges for someone to take custody of his vehicle.
4. Do not leave vehicles on expressways.
 - a. Officers may allow the owner/driver 1 hour for the removal of vehicles that are mechanically disabled but not in a hazardous location.
5. If unable to release a stolen vehicle to the owner, complete a Form 303, Motor Vehicle Incident Report, and Form 369.
 - a. Process all copies of the Form 303 and forward the original to Records Section.
 - b. Fax the Form 369 to the Impound Unit at line 352-3998, as soon as possible.
 - 1) Give the yellow copy of Form 369 to the wrecker driver.
 - 2) The pink copy of Form 369 is retained at the district.
 - 3) Mail the original white copy of Form 369 to the Impound Unit using interdepartmental mail.
6. For all other tows, the original Form 369 will accompany the vehicle to the Impound Unit.
7. The owner of any vehicle impounded under CMC Section 513-1, Impoundment of Motor Vehicles, must be notified personally or by regular mail sent to the last known address of the registered owner.
 - a. Impounding officers will attempt to notify the vehicle owner in person or by phone and note same on the Form 369. If officers are unable to make notification, they will record any relevant information that would help Impound Unit personnel make the notify.
 - 1) After towing to the lot, Impound Unit personnel will be responsible for notifying the owner.

- b. The notification will include the:
 - 1) Reason for impounding and the location where the vehicle was towed.
 - 2) Procedure for obtaining release of the vehicle.
 - 3) Basic charges for impound and storage according to current posted rates.
- 8. Owners are responsible for towing charges on all tows to the Impound Unit. Impound Unit personnel can release, without charge, vehicles legitimately disabled and impounded to help the flow of traffic.
- 9. Failure to obtain release of the motor vehicle within 20 days of impound may cause it to be salvaged or sold at auction.
- 10. The towing officer will inventory the vehicle and the contents of any vehicle taken to the district (see Procedure 12.265). Do this even though someone may be responding to pick up the vehicle.

C. Impounding Vehicles

- 1. The driver/owner is arrested and the vehicle has to be impounded:
 - a. A supervisor must approve the impound.
 - 1) Supervisors do not need to approve vehicle tows when a subject is arrested under CMC Chapter 759.
 - b. Tow or drive the vehicle directly to the Impound Unit during normal business hours using the Form 369.
 - c. If the vehicle is towed or driven to the district, notify the Impound Unit to remove it by wrecker on the next day.
- 2. Vehicles towed for CMC 759 violations:
 - a. Persons charged with violations of CMC 759 must be given a written "Notice of Civil Citation".
 - 1) The hard copy of the "Notice of Civil Citation" is given to the defendant.
 - 2) The pink copy goes to the Office of Administrative Hearings.
 - a) These copies must be delivered by 1100 the day following the arrest via interdepartmental mail.
 - 3) The yellow copy goes to the Treasurer's Office at City Hall, via interdepartmental mail.

- a) Officers must fax a copy to the Treasurer's Office (352-6984) in the event the defendant attempts to pay the civil fine before the copy of the citation arrives at their office.
 - b. Complete a Form 369. Indicate in the "Reason for Towing" and "Comments" blocks the operator was arrested for the CMC 759 violation.
 - c. Provide the wrecker driver with the Form 369 and attach a copy of the Form 527, Arrest and Investigation Report, and the original (white) copy of the "Notice of Civil Citation".
- 3. Operating a vehicle under the influence (OVI) and driving while under suspension (DUS).
 - a. Tow a vehicle for pretrial seizure in all cases of DUS except the following:
 - 1) When charging the driver with DUS 4510.037J.
 - a) Points suspensions (12 or more points).
 - b) Status – "Suspended".
 - 2) When charging the driver with DUS 4510.21.
 - a) Suspensions with time limits/dates that are expired.
 - b) Driver failed to pay fines/fees required to reinstate license.
 - c) Status – "Failure to Reinstate".
 - b. Tow vehicles subject to forfeiture when any of the following apply to the operator:
 - 1) Operating a vehicle which has been ordered immobilized.
 - 2) Arrest for OVI with three previous convictions within six years.
 - 3) Arrest for wrongful entrustment with one previous conviction (no time limit).
 - 4) Arrest for FRA suspension with two previous convictions within five years.
 - 5) Arrest for OVI suspension with two previous convictions within six years.
 - c. Complete Form BMV-2255 (ALS) and Form 369.

- d. Inform Police Communications Section (PCS) whether the vehicle is being towed for pretrial seizure or is subject to forfeiture.
 - 1) Towing companies will tow vehicles held for pretrial seizure and those subject to forfeiture to the Impound Unit.
- 4. Vehicles ordered immobilized by the courts which are not already impounded.
 - a. Records Section will distribute all Court Issued Immobilization Notices (BMV-2270) to the Patrol Bureau for action.
 - 1) Districts will make reasonable attempts to locate vehicles and have them impounded.
 - 2) If the vehicle is found, initiate a Signal 38 and advise PCS the vehicle is a court ordered immobilization. These tows go to the Impound Unit.
 - a) Complete Form 369.
 - b. Patrol Bureau will return the BMV-2270 to the Records Section along with the disposition.
- 5. Stolen/recovered vehicles:
 - a. Every effort should be made to release auto recoveries to the owner at the scene of recovery.
 - b. If the owner cannot be notified or refuses to claim the vehicle at the scene, the vehicle will be towed by a private wrecker designated for auto recoveries.
 - 1) A Signal 38 will be given to PCS to request a private wrecker be dispatched.
 - 2) A Form 369 and Form 303 will be completed by the recovering officer.
 - a) Fax Form 369 to the Impound Unit, at 352-3998, as soon as possible.
 - 1] The yellow copy of Form 369 will be given to the wrecker driver.
 - 2] The original white copy of Form 369 will be mailed to the Impound Unit using interdepartmental mail.
 - 3] The pink copy of Form 369 will be retained at the district.

- b) All copies of the Form 303 will be turned in at the district for processing.
 - c. If the vehicle is not held as evidence, follow Procedure 12.420.
 - d. Investigations concerning recoveries will be done at the private storage facility within 24 hours of recovery.
 - 1) Location of the vehicle can be obtained from the Form 369 or PCS.
 - e. All fees for towing and storage will be charged by the private towing company.
6. Held for evidence/investigation
- a. A supervisor must approve the impounding of the vehicle.
 - b. Tow or drive the vehicle directly to the Impound Unit, during business hours, using the Form 369.
 - c. If the vehicle is towed or driven to the district, notify the Impound Unit to remove it by wrecker on the next day.
 - d. If a coroner's case, the vehicle may be towed to the Coroner's Office, with supervisory approval. Other options include towing or driving to the district for processing and release, or towing to the Impound Unit by first shift.
 - e. Take vehicles held by specialized units (e.g., Vice, CIS) to the district with the approval of the district shift officer in charge (OIC). Specialized units will keep responsibility for disposition of the vehicle.
7. Vehicle held at the request of other authorities
- a. If possible, contact the requesting authority.
 - b. If they can respond immediately, release the vehicle to them.
 - 1) Obtain a signed Form 330, Property Receipt, for the vehicle.
 - c. If the requesting authority cannot respond immediately and the vehicle is:
 - 1) Drivable, take it to the district and have the requesting authority respond to the district.
 - 2) If the vehicle is not drivable, it will be towed to the Impound Unit during business hours or to the district if it is outside of Impound Unit business hours. Include all pertinent information on the Form 369.

8. Vehicle unlawfully parked on a street and interfering with pedestrian or vehicular traffic:
 - a. Have the owner/driver move the vehicle immediately.
 - b. If the owner/driver is not immediately available, cite for the proper violation and tow it to the Impound Unit.
 - 1) When the Impound Unit is closed, a supervisor may approve a move-only. Issue a citation and tow to a non-hazardous location.
9. Vehicles parked on private or public property without consent of the owner:
 - a. For vehicles parked on private property, or public property under the control of another non-City government agency (e.g., Board of Education, Metropolitan Housing Authority), take the following action:
 - 1) If the vehicle is obstructing driveways, loading docks, fire lanes, ingress, or egress, the officer will try to locate the owner and have the vehicle moved immediately. If unable to locate the owner, the officer will impound the vehicle. The officer will include on the Form 369 a brief investigative summary and the property owner's name who requested the vehicle removal.
 - a) If applicable, issue a citation for the proper violation.
 - 2) If the vehicle is occupying a parking space or appears to be abandoned but not blocking ingress, egress, loading dock, etc., the officer will run a computer check to see if it is stolen, wanted, etc. The officer will tow only if there is a computer hit.
 - a) Do not tow delinquent vehicles from private property.
 - 3) For vehicles on property, other than City property, and not stolen or wanted, the officer should try to find the vehicle owner to move the vehicle. The officer will advise the property owner of the towing provisions under Ohio Revised Code (ORC) Sections 4511.681 and 4513.60. If the property owner follows these guidelines, he may have the vehicle towed at the vehicle owner's expense.
 - a) For abandoned junk vehicles on private property, refer to Procedure 12.275.
 - b. For property owned or controlled by the City, including the Park Board, Recreation Department, etc., take the following action:

- 1) If the vehicle is obstructing driveways, loading docks, fire lanes, or other ingress or egress, follow Section C.8. of this procedure.
 - 2) If the vehicle is stolen, otherwise wanted, or in violation of the law, impound it per procedure.
- c. For unlicensed/inoperable vehicles on private property, refer to Procedure 12.275.
10. Follow Procedure 12.275 for abandoned or junk vehicles.
11. Follow Procedure 12.255 for delinquent vehicles.
12. Vehicles wanted for hit-skip:
 - a. If an individual is cited or physically arrested for hit-skip, tow the vehicle to the Impound Unit, only if it is needed for follow-up investigation, with the approval of a supervisor.
 - b. Impound the vehicle if needed as evidence with the approval of a supervisor.
 - 1) If the driver is physically arrested, follow Section C.1. of this procedure.
 - c. Complete a Form 369. A photocopy of the Form 369 will be forwarded to the Hit Skip Squad with the OH-1.
13. Expired license plates:
 - a. Ohio/non-Ohio registration:
 - 1) Within 30 days following the expiration date, issue a citation for CMC Section 503-52 if the vehicle is moving or CMC Section 508-25 if the vehicle is parked.
 - 2) If the plate is expired more than 30 days, the vehicle may be impounded. A citation is sufficient if registration information is verified and the owner notified.
14. No license plates:
 - a. Impound the vehicle; do not issue a citation. This applies to both occupied and unoccupied vehicles.
15. Unroadworthy vehicles:
 - a. Officers will issue an Ohio Multi-Count Uniform Traffic Ticket (MUTT) using CMC Section 503-29.
 - 1) Have the vehicle towed to the Impound Unit. Do not drive or allow the vehicle to be driven.

- 2) The Impound Unit supervisor will arrange to have the vehicle inspected by a mechanic from Fleet Services.
 - a) The mechanic will record his findings on a Form 17, noting his name, unit, and telephone line number. Unroadworthy Forms 17 are kept in a separate file at the Impound Unit. A copy of this Form 17 is also sent to the impounding officer by the Impound Unit for use in court cases.
 - b) If the inspection determines the vehicle is unroadworthy, the additional towing charge and the inspection fee charged to the Department by the Municipal Garage will be passed on to the owner of the unroadworthy vehicle.
- b. When officers are notified to respond to court about an unroadworthy vehicle charge (not guilty plea), they will contact the Impound Unit supervisor. He will notify the mechanic to appear in court to testify about the condition of the subject vehicle.
16. Parked vehicle involved in a vehicular crash:
 - a. If legally parked and not causing a safety hazard, do not tow.
 - b. If parked in violation or interfering with traffic, and the owner is not located, tow the vehicle to the Impound Unit as held for owner.
17. Follow Procedure 12.215 for street cleaning or paving violations.

D. Move-Only Tows

1. Use a move-only as a last resort unless an emergency situation requires immediate action. Costs for move-only tows are charged against the police budget.
 - a. Cite vehicles when violations are present.
2. Complete a Form 369. Be specific, complete each appropriate space.
 - a. Remain at the scene to direct the wrecker driver.
 - b. Give the white copy of the Form 369 to the wrecker driver.
 - c. The officer's immediate supervisor will review, sign, and forward the yellow copy to the Impound Unit without delay.
 - d. Note on the Form 369 if the vehicle was cited for a traffic violation.

E. Mechanically Disabled Vehicles

1. The vehicle owner/driver is responsible for securing a wrecker for a disabled vehicle not involved in an auto accident. Instruct the owner/driver to secure a licensed wrecker of his choice.
 - a. If the position of the vehicle creates a hazard to motorists or pedestrians the officer will ensure the vehicle is removed.
 - 1) The officer will attempt to move the vehicle to a non-hazardous location with the use of push bumpers.
 - 2) If the vehicle is unable to be moved the officer will remain with the vehicle and may allow the owner/driver 1 hour to secure a private wrecker.
 - 3) The officer will remove the vehicle if it is determined a greater hazard would be created by allowing the vehicle to remain.
 - a) The officer will inform the owner/driver they are responsible for the wrecker payment.
 - b) The officer will instruct the wrecker driver to charge the owner/driver and not to bill the city.
2. Vehicles disabled due to fire will immediately be removed from the roadway by the owner/driver or impounded by the officer.

F. Property Contained in Vehicles

1. Process as required in Procedure 12.265.

G. Damage on Vehicles:

1. List as required in Procedure 12.265.

H. Releasing Vehicles

1. At the scene
 - a. Release vehicles, not needed for evidence or by other authorities, to the person with right of possession if he arrives at the scene before the wrecker driver has left the curb and entered a moving lane of traffic.
 - 1) Issue a citation for existing violations.
 - 2) Advise PCS to put the wrecker driver back on top of the rotation list.

2. From Impound Unit

- a. An owner wishing to claim an impounded vehicle must present his Certificate of Title and/or License Registration and proper identification at the Impound Unit. The Impound Unit officer will ensure the owner of the vehicle is queried for outstanding warrants prior to the release of the vehicle.
- b. Inform owners that impound and storage fees do not include payment for any traffic citations. Traffic citations attached to the vehicle are to be processed by the vehicle's owner in the regular manner.
- c. The Impound Unit will obtain the total impound and storage fees from the vehicle owner/driver.
 - 1) Additional charges may be levied if a person fails to claim the vehicle within 24 hours, after having been personally contacted or notified by regular mail.
 - 2) Extra costs for any service necessary to impound or properly maintain the vehicle will also be added to the impound and storage fees.
 - 3) Any person whose vehicle is towed under CMC Chapter 759 will also be required to pay a \$500.00 civil fine.
 - 4) The Impound Unit accepts cash, Visa or MasterCard for payment of impound fees. No checks are accepted.
 - a) Only the person whose name appears on the credit card may use it.
- d. Inform owners with vehicles on the delinquent list that all delinquent tags must be paid or registered for court. They must present proof of such action in the form of receipts or register cards at the Impound Unit before the vehicle will be released.
- e. Releasing vehicles when the Impound Unit is closed:
 - 1) Generally, vehicles are not released from the Impound Unit when closed. In unusual circumstances, the Night Chief, or in his absence the shift OIC of the involved district may authorize recall of an Impound Unit officer to release a vehicle. PCS maintains a recall list. Examples of unusual circumstances include: a vehicle impounded through error, which would reflect adversely on the public image of the Department, extreme hardships such as an out-of-town family with young or ill members, etc. Supervisors ordering such recalls should bear in mind the expense incurred from a recall.

- 2) Vehicles driven or towed to the district may be released without charge at the district upon authorization of the Night Chief, or in his absence, the shift OIC. Send a copy of the completed Form 369 to the Impound Unit.
 - 3) A Form 17 should be made by the requesting unit supervisor showing unusual circumstances and/or reason for request.
- f. Removal from district lot
- 1) Vehicles impounded at the district when the Impound Unit is closed will be ordered towed to the Impound Unit after 0700 by notifying the Impound Unit OIC. The Impound Unit OIC will dispatch the contract wrecker or a Signal 38. If release is imminent, or a given period has been permitted for the owner to claim the vehicle from the district without imposing a towing fee, the towing may be deferred.
 - 2) If a vehicle is towed to a district and again to the Impound Unit, the additional towing charge is not passed on to the owner. The owner will pay only the normal fee.
 - 3) Time for calculating storage fees begins when the vehicle is actually impounded at the Impound Unit.



JOSEPH T. DETERS
HAMILTON COUNTY PROSECUTING ATTORNEY

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March 27, 2006

Ms. Kathy Harrell
FOP President
Fraternal Order of Police
Queen City Lodge #69
1900 Central Parkway
Cincinnati, Ohio 45214

Dear Ms. Harrell:

On February 13, 2006, my Criminal Division Chiefs and I met with you and Terry Pierano. We discussed your concerns about the grand jury supposedly ignoring low-level drug cases (F-4s and F-5s). I told you that regarding weight we are indicting all cases except those with only trace amounts of contraband (less than .10 grams). Experience shows it is practically impossible to prove "knowing possession" at such levels. Trial courts look with disfavor on trace amount cases.

Nevertheless, I agreed that we would be glad to review any cases that your officers felt were improperly ignored. It was my position that if we were ignoring cases that should be indicted, I needed to know about it. To this date we have not heard from you concerning any particular cases. I remain more than willing to discuss such cases with you.

Recently I have heard that you have appeared before various civic groups and stated that my office will not indict low-level felony drug cases. In view of our meeting, and my offer to review cases of concern, I find this not only surprising but disturbing.

-continued-

In an effort to determine what happens to drug cases in grand jury I had my staff pull all trafficking/possession cases for the month of January 2006. There were 179 such cases. Of these 179 cases, 49 were ignored. The breakdown on those ignores is as follows:

Negative or no lab report	16
Less than .10 gram or trace	19
Indicted on other charges	2
Witness no show	1
Lack of evidence	11
Total	49

Of these ignores, 28 were from the City of Cincinnati.

During the same month there were 130 trafficking/possession cases indicted. The following is a breakdown of these 130 indicted cases:

Less than .10 gram or trace	7
.10 grams to 1 gram	62
Above 1 gram	61
Total	130

Of these cases, 89 were from the City of Cincinnati.

As these statistics prove, the urban myth that the grand jury "ignores drug cases under a gram" is just that, a myth. To the contrary, these statistics indicate that low-weight drug cases are routinely indicted, not ignored. If you disagree with my conclusions, I would appreciate hearing your interpretation.

-continued-

Kathy Harrell
FOP President
March 27, 2006

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In the face of these facts, I think the message you are sending the public with your comments is inaccurate and damaging to law enforcement. I do not want to be in the position of sending speakers to these same civic groups to contradict and correct what they have been told. Rather, I hope we can work cooperatively, as we discussed in our meeting in February 2006.

Sincerely,



Joseph T. Deters
Prosecuting Attorney

JTD/mak

Cc: Thomas H. Streicher, Jr., Police Chief
Keith Fangman, Trustee, FOP